

MONTANA PUBLIC DEFENDER COMMISSION
LEGISLATIVE COMMITTEE MEETING
CONFERENCE CALL

Minutes

December 4, 2008

(Approved at the January 9, 2009 Commission Meeting)

Public Locations:

Office of the State Public Defender Central Office, 44 West Park, Butte
Region 4 Office, 111 N. Last Chance Gulch, Suite 4C, Helena

Call to Order

The meeting of the Legislative Committee was called to order at 8:40 a.m. by Committee Chair Tara Veazey. She thanked everyone for attending and invited questions and comments from the public throughout the meeting.

Commissioners Present

Tara Veazey, Mike Sherwood, Jennifer Hensley

Other Interested Parties

OPD staff: Randi Hood, Chief Public Defender; Harry Freebourn, Administrative Director;

Steve Eschenbacher, Assistant Public Defender, Hamilton; Nick Aemisegger, Managing

Attorney, Kalispell; Moira D'Alton, Assistant Public Defender, Billings

Contract Attorneys: Meghan Sutton, Great Falls; Jennifer Bordy, Bozeman

Senator Steve Gallus, Butte

Timm Twardoski, American Federation of State, County and Municipal Employees (AFSCME)

Scott Crichton, American Civil Liberties Union of Montana (ACLU)

Approval of Minutes

The minutes of the October 10, 2008 meeting were approved as submitted.

Status of Proposed Legislation

Chief Hood reported on the status of the two bills that the Public Defender Commission requested. The bill requiring that discovery be provided to indigent clients at no cost will be sponsored by Senator McGee. It is intended to clean up the original legislation. The second bill relating to electronic recording of custodial questioning, was not supported by the Governor's office because they are not supporting any policy changes this session.

Discussion – Legislative Action Plan

Chair Veazey requested a budget update. Mr. Freebourn provided the details of the Governor's budget, which represented a significant reduction from the Commission's request. The contract attorney rate includes a 1% increase, and the attorney pay ladder was funded at half of the requested amount. Requests for funding for the system study, file maintenance, and death penalty costs were totally eliminated from the Governor's budget.

Commissioner Sherwood noted that despite the Commission's efforts, contract attorneys will have to press for a significant increase to the hourly rate on their own. Ms. Sutton hopes to engage some contract attorneys toward that end.

Governor's Guidance for Commissioners During the Legislative Session

Commissioner Hensley stated emphatically that Commission members are prohibited from opposing the Governor's budget or his legislative agenda as his appointees. They are free to advocate as individuals, but not as a Commission or as Commission members.

Senator Gallus said that this restriction applies to every executive branch agency, and that the Commission shouldn't feel targeted. He recommended that, rather than continuing to hope for more, the Commission begin to think defensively in terms of protecting the small increases that were included in the Governor's budget. Chair Veazey noted that it is appropriate for the Commission to defend the Governor's budget.

FTE and Contract Attorneys

The career ladder pay adjustment for staff attorneys was funded at half the request. Since the union contract is based on available funding it doesn't have to be renegotiated. Mr. Freebourn said that the agency will meet with the union to decide how to spend whatever amount is eventually approved. Mr. Twardoski said that AFSCME will try to protect the 3% pay increase included in the budget.

Chief Hood encouraged staff and contract attorneys to talk to their local legislators as individuals about what the public defender system does. Senator Gallus agreed, and said that personal contacts made before the session begins is time well-spent, especially with members of the appropriations subcommittee.

Mr. Freebourn clarified that the agency and the Commission will not take a position on any bill other than the one Senator McGee is carrying, and will only provide information on other bills as requested. It is past the time for any other agency-requested bills, and any other issues that might arise will have to be addressed in the next session.

Fee Collection and Other Issues

Commissioner Sherwood is expecting to see a bill requiring OPD to do more fee collections. Senator Shockley has requested a bill revising the public defender system, but it is still in drafting. Mr. Freebourn said that when bills with policy issues affecting the agency appear, they can be brought to the Governor's office.

Public Comment

Mr. Crichton noted that the Montana Association of Criminal Defense Lawyers does not intend to hire a lobbyist this session.

Old Business/New Business

The next meeting of the Legislative Committee is scheduled for January 9, 2009 in Helena.

Adjourn

The meeting adjourned at 9:30 a.m.